

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

IN RE: SCOTT M. FAVRE

**§ BANKRUPTCY CASE NO. 00-55067
§ ADVERSARY PROC. NO. 01-05138**

LYNDON PROP. INS. CO.

APPELLEE

v.

CAUSE NO. 1:06CV265

SCOTT M. FAVRE

§ APPELLANT

ORDER DISMISSING APPEAL

THIS CAUSE COMES BEFORE THE COURT *sua sponte*. A Notice of Appeal [1] was filed by Scott M. Favre (“Appellant”) on March 28, 2006. On the same day, the clerk of court sent a letter [2] to the parties advising the of the filing, and four months later the case was reassigned [3] to the undersigned U.S. District Judge. There has been no other activity in this case. As of this date, Appellant has failed to file an appeal brief.

Rule 8009(a)(1) of the Bankruptcy Rules requires the appellant in a bankruptcy appeal to file a brief with the district court “within 15 days after entry of the appeal on the docket pursuant to Rule 8007,” unless the district court alters this requirement by local rule. There is no local rule altering the requirement in this District. *See In re Salter*, 251 B.R. 689, 691 (S.D. Miss. 2000).

Rule 8001(a) of the Federal Rules of Bankruptcy Procedure allows the district court to dismiss an appeal if the appellant fails to take any step required under the rules for proper prosecution of an appeal. The United States Court of Appeals for the Fifth Circuit has affirmed dismissals of bankruptcy appeals when the appellant failed to file a brief within the required time. *Id.* (citing *International Brotherhood of Teamsters v. Braniff Airways, Inc.*, 774 F.2d 1303

(5th Cir. 1985) and *Pyramid Mobile Homes, Inc. v. Speake*, 531 F.2d 743 (5th Cir. 1976)).

Because Appellant has failed to file a brief within the time allowed by the Bankruptcy Rules, he has failed to prosecute this appeal. The appeal will therefore be dismissed.

IT IS THEREFORE ORDERED AND ADJUDGED that the appeal of Appellant Scott M. Favre [1], filed March 28, 2006, is **DISMISSED** pursuant to Rule 8001(a) of the Federal Rules of Bankruptcy Procedure.

SO ORDERED AND ADJUDGED this the 12th day of February, 2007.

s/ Louis Guirola, Jr.
LOUIS GUIROLA, JR.
UNITED STATES DISTRICT JUDGE